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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,774	12/29/2000	Stephen T. Stoycos	GEMS:0096/YOD 31-CD-5622	8744
7590 10/29/2004			EXAMINER	
Patrick S. Yoder Fletcher, Yoder & Van Someran P.O. Box 692289 Houston, TX 77269-2289			DOLINAR, ANDREW M	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/751,774

Applicant(s)

STOYCOS ET AL.

Examiner

Andrew M. Dolinar

Art Unit

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Art Unit: 3747

### **DETAILED ACTION**

Prosecution is hereby reopened for the purpose of entering new grounds of rejection based on prior art not previously of record as set forth below.

#### ***Response to Remand***

The application has been reconsidered pursuant to the remand directive by the Board of Patent Appeals and Interferences that prior to final disposition of this application and if not already investigated, the examiner, with appellants' help, should determine if the prior techniques referred to in the specification represent prior art to appellants' claimed invention. If so, the examiner should determine the full extent of those prior art teachings. Thereafter, the examiner should consider whether or not those prior art teachings in combination with Budd taken with any other known prior art, including Soukal, would have led (provided both the incentive and a reasonable expectation of success) one of ordinary skill in the art to transmit, replicate and display sensed data obtained from a patient's heart via such an EPS study, as here claimed.

Applicant has provided no prior art publications in response to the Requirement for Information under 37 CFR 1.1 05 dated May 25, 2004, however, other relevant prior art has been discovered. Upon further consideration it has been determined that it would have been obvious to one of ordinary skill in the art to transmit, replicate and display sensed data as claimed in view of newly discovered prior art to Berkowitz et al. Berkowitz et al teaches the subject matter that the Board has concluded is not inherently taught or suggested by the combination of Soukal and Budd et al as previously applied.

Art Unit: 3747

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soukal (US 6,035,328) in view of Berkowitz et al (US 5,392,400) and Budd et al (US 5,662,108). Soukal discloses a medical therapeutic and/or diagnostic system with a central server 8 and a plurality of operating means (4, 6, 9, 11) at various locations. The system provides for exchange of control and display data (column 1, lines 12-18, and claim 1). Soukal does not expressly disclose data replicating and the cardiac catheterization procedure. Berkowitz et al teaches that it is known to provide a collaborative computing method and system wherein output data from and input data for an application program are shared among all of the computers and the output from the application program is intercepted and then replicated on each of the computers' displays as set forth in the abstract. A replicating mechanism provides for sharing of contents (i.e. data) for viewing at participating workstations (column 6, lines 5-26) in real-time (column 3, lines 14-17). Budd et al teaches that it is known to perform a cardiac catheterization procedure as set forth in the abstract. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the medical data processing system of Soukal with a replicating mechanism, as taught by Berkowitz et al, in order to provide efficient real-time access to display contents at the remote locations, and to use the system in combination with a cardiac catheterization procedure and system, as taught by Budd et al, because this merely

Art Unit: 3747

involves combining elements of art recognized suitability for an intended purpose. See MPEP § 2144.07. The resulting system would inherently perform the claimed method.

Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).


### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Dolinar whose telephone number is (703) 308-1948. The examiner can normally be reached on Mon. - Thu. 7:45 - 6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (703) 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**RICHARD A. BERTSCH**  
APPROVED  
TECHNOLOGY CENTER 3700

  
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AMD

  
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